



CALIFORNIA STATE PERSONNEL BOARD

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ARNOLD SCHWARZENEGGER, Governor



CALIFORNIA STATE PERSONNEL BOARD MEETING

801 Capitol Mall
Sacramento, California

Public Session Location – 801 Capitol Mall
Sacramento, California, Room 150
Teleconference – 320 West 4th Street
Los Angeles, California, Suite 620

Closed Session Location – 801 Capitol Mall
Sacramento, California, Room 141
Teleconference – 320 West 4th Street
Los Angeles, California Suite 620

SUMMARY MINUTES – JUNE 5, 2007

FULL BOARD MEETING MINUTES¹

JUNE 5, 2007

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

Sean Harrigan, President
Anne Sheehan, Vice President
Maeley Tom, Member
Patricia Clarey, Member
Richard Costigan, Member

2. REPORT OF THE EXECUTIVE OFFICER – Suzanne M. Ambrose

- A.** SPB, DPA and various departments will be conducting a 2-day off-site to plan the HR Modernization project.
- B.** Mr. Costigan and the Executive Officer held a “Meet and Greet” with various unions on May 25, 2007. The unions expressed several concerns with SPB’s Appeals Division and, specifically, the discipline cases. The cases are taking too long to be heard. The Executive Officer will be looking at the improvements to the entire appeals process.
- C.** Another area of focus will be the exams process. SPB has several written and unwritten policies pertaining to exams and appointments. The staff will be reviewing these policies and procedures to determine whether they are based in law and whether they need to be adopted by regulation. The advantage of the regulatory process is that interested persons have an opportunity to provide input, and the Board, therefore, has the benefit of different perspectives before setting policy that impacts the stakeholders.

¹ The Minutes for the Board Meetings can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

**3. REPORT OF THE DEPARTMENT OF PERSONNEL ADMINISTRATION (DPA)
AND UPDATE ON PROPOSED GPA CLASSIFICATION**

- Daryll Tsujihara, Division Chief, DPA
- Carol Ong, Assistant Division Chief, Appeals Division, SPB
- Neal Johnson, SEIU
- Larry Perkins, Unit 4 Chair, SEIU

Daryll Tsujihara gave a brief report on recent activities at DPA. Additionally, Daryll Tsujihara was joined by Carol Ong, Neal Johnson, and Larry Perkins to update the Board on the proposed establishment of the Governmental Program Analyst (GPA) classification. Revisions will be made to the current Staff Services Analyst (SSA) classification as an alternative to the establishment of the proposed GPA classification as heard at the April 3, 2007 and May 8, 2007 Board Meetings.

4. REPORT OF THE CHIEF COUNSEL – Elise Rose

- We are still dealing with the Receiver issues. We have recently received the court's order on the Receiver's request to waive laws and rules pertaining to the bidding and award of state contracts. The Board had expressed concerns regarding the constitutional underpinning of the civil service mandate and the implementing legislation. The Receiver withdrew his request to waive personal services contracting processes and the court ruled that those provisions are not waived. The Receiver must be able to justify his contracts under Government Code 19130 and the applicable processes for vetting and challenging such processes to remain in place. The court did establish an abbreviated bidding process. The court is now accepting electronic filings in the case.
- The cost-savings contract regulations will be set for a final hearing in July.
- Legal is working on revisions and additions to the hearing office and appeals regulations.
- Bruce Monfross has voluntarily transferred back to SPB as Senior Staff Counsel.

5. NEW BUSINESS

NONE PRESENTED

6. REPORT ON LEGISLATION – Stephanie Ramirez-Ridgeway for Sherry Evans

We met with Senator Romero's staff regarding our suggested amendments to SB 1019, which would exempt the SPB from the confidentiality provisions related to peace officer personnel records. They have assured us that our amendments will be taken when the bill goes to the Assembly, which it did late Monday night.

June 5, 2007

7. ORAL ARGUMENT

In the matter of **CASE NO. 05-2888PA**. Appeal from dismissal. Staff Services Analyst (General). Department of Consumer Affairs.

Persons Participating:

Joseph T. Macaluso, Staff Counsel, Department of Corrections and Rehabilitation, representing department.

Shelley Lytle, Supervising Legal Counsel, CCPOA, representing appellant.

ACTION: SUBMITTED

**CLOSED SESSION OF THE STATE PERSONNEL BOARD PURSUANT TO
COPELY PRESS, INC. v. SUPERIOR COURT (2006) 39 CAL. 4TH 1272**

8. ORAL ARGUMENT

In the matter of **CASE NO. 06-0235A**. Appeal from dismissal. Correctional Officer. Department of Corrections and Rehabilitation.

Persons Participating:

Michael E. Gash, Labor Relations Counsel, Department of Personnel Administration, representing department.

Mary Alice Coleman, Attorney, representing appellant.

ACTION: SUBMITTED

CLOSED SESSION OF THE STATE PERSONNEL BOARD

**9. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND
OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing.

[Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

**10. DRAFT POST REGULATIONS – Suzanne M. Ambrose, Executive Officer,
California State Personnel Board**

A Discussion was held regarding the Peace Officer Standards & Training Academy (POST) regulations.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

11. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

12. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]
(See Action Taken on Pages 12–20)

13. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.
[Government Code sections 11126(e)(1) and 18653.]

Patrick McCollum v. State of California

United States District Court, Northern District of California
Case No. C 04-03339 CRB

Plata, et al. v. Schwarzenegger, et al.

Case No. C01-1351 THE

Colocousis, et al. v. State Personnel Board, et al.

Sacramento Superior Court Case No. 07CS00461

14. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

SB 519 (Committee on Governmental Organization)

The purpose of the bill is to enable state bodies, under limited circumstances, to meet quickly and without being bound by the 10-day notice requirements currently contained in the Bagley-Keene Open Meeting Act.

POSITION: NEUTRAL

June 5, 2007

SB 870 (Ridley-Thomas)

The purpose of the bill is so that managers and supervisors in State service cannot bargain, or negotiate contracts and terms of employment. The author also believes that supervisors are penalized by the three year statute of limitations because performance and behavioral issues may not be addressed in an efficient and timely manner.

POSITION: NEUTRAL IF AMENDED

AB 1702 (Blakeslee)

The purpose of the bill is to make the current Demonstration Project between SPB and Caltrans permanent.

POSITION: OPPOSE UNLESS AMENDED

15. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor.
[Government Code section 18653.]

NO ACTION

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

16. DISCUSSION OF UPCOMING BOARD MEETING SCHEDULE OF JUNE 19, 2007, IN SACRAMENTO, CALIFORNIA

NONE

BOARD ACTIONS:

17. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF MAY 8, 2007

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

18. EVIDENTIARY CASES

ACTION: See Case Listing on Pages 12–22

19. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION - (See Minutes on Pages 31–32)

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

20. NON-EVIDENTIARY CASES

ACTION: See Case Listings on Pages 22–27

21. NON-HEARING CALENDAR

The following proposals were made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

On June 5, 2007, the following proposals were presented to the Board by Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

- A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.**

SUPERVISING DENTIST, CORRECTIONAL FACILITY

The California Department of Corrections and Rehabilitation proposes the establishment of a new classification titled Supervising Dentist, Correctional Facility, with a one year probationary period.

- B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.**

THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD propose to abolish the following unused classifications, which have been vacant for more than twenty-four months. Departments that utilize the class as well as the appropriate union have no objection to the abolishment of these classes.

NONE

22. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE

23. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Minutes serves to inform interested individuals and departments of proposed and approved CEA position actions.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

DEPUTY DIRECTOR, CENTER FOR INFECTIOUS DISEASES

The California Department of Health Services (CDHS), on behalf of the California Department of Public Health (CDPH) proposes to allocate the above position to the CEA category. The Deputy Director for Infectious Diseases develops, implements, and coordinates prevention-oriented health programs designed to protect and enhance the health of the citizens of California and is directly responsible for development and implementation of new or existing policies.

ASSISTANT DEPUTY DIRECTOR, CENTER FOR INFECTIOUS DISEASES

The California Department of Health Services (CDHS), on behalf of the California Department of Public Health (CDPH) proposes to allocate the above position to the CEA category. The Assistant Deputy Director will manage the day-to-day operations of the Center for Infectious Diseases and assists in the planning, implementing, coordinating, evaluating, and managing of the CDPH Infectious Diseases programs.

DEPUTY DIRECTOR, CENTER FOR CHRONIC DISEASE PREVENTION AND HEALTH PROMOTION

The California Department of Health Services (CDHS), on behalf of the California Department of Public Health (CDPH) proposes to allocate the above position to the CEA category. The Deputy Director manages and directs policy development on a wide range of public health and environmental health issues including chronic disease, injury control, environmental and occupational diseases.

ASSISTANT DEPUTY DIRECTOR, CENTER FOR CHRONIC DISEASE PREVENTION AND HEALTH PROMOTION

The California Department of Health Services (CDHS), on behalf of the California Department of Public Health (CDPH) proposes to allocate the above position to the CEA category. The Assistant Deputy Director assists in the planning, implementation, coordination, evaluation, and management of the CDPH chronic disease, injury control, environmental and occupational diseases.

DEPUTY DIRECTOR, CENTER FOR ENVIRONMENTAL HEALTH

The California Department of Health Services (CDHS), on behalf of the California Department of Public Health (CDPH) proposes to allocate the above position to the CEA category. The Deputy Director manages and directs policy and program development on a wide range of public and environmental health issues including Drinking Water, Environmental Management, Food, Drug, and Radiation Safety issues.

ASSISTANT DEPUTY DIRECTOR, CENTER FOR ENVIRONMENTAL HEALTH

The California Department of Health Services (CDHS), on behalf of the California Department of Public Health (CDPH) proposes to allocate the above position to the CEA category. The Assistant Deputy Director assists in the planning, implementation, coordination, evaluation, and management of the CDPH environmental health programs

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

CHIEF INFORMATION OFFICER

The Department of Technology Service's request to allocate the above position to the CEA category has been approved effective May 15, 2007.

DEPUTY DIRECTOR, ADMINISTRATION

The California Department of Health Services' request on behalf of the California Department of Public Health to allocate the above position to the CEA category has been approved effective May 14, 2007.

CHIEF, FINANCIAL MANAGEMENT BRANCH

The California Department of Health Services' request on behalf of the California Department of Public Health to allocate the above position to the CEA category has been approved effective May 14, 2007.

CHIEF, HUMAN RESOURCES BRANCH

The California Department of Health Services' request on behalf of the California Department of Public Health to allocate the above position to the CEA category has been approved effective May 14, 2007.

CHIEF, PROGRAM SUPPORT BRANCH

The California Department of Health Services' request on behalf of the California Department of Public Health to allocate the above position to the CEA category has been approved effective May 14, 2007.

DEPUTY DIRECTOR, INFORMATION TECHNOLOGY SERVICES DIVISION (ITSD)

The California Department of Health Services' request on behalf of the California Department of Public Health to allocate the above position to the CEA category has been approved effective May 14, 2007.

CHIEF, APPLICATION SUPPORT BRANCH, INFORMATION TECHNOLOGY SERVICES DIVISION (ITSD)

The California Department of Health Services' request on behalf of the California Department of Public Health to allocate the above position to the CEA category has been approved effective May 14, 2007.

CHIEF, OFFICE OF CIVIL RIGHTS

The California Department of Health Services' request on behalf of the California Department of Public Health to allocate the above position to the CEA category has been approved effective May 14, 2007.

DEPUTY DIRECTOR, HUMAN RESOURCES

The California Department of Corrections and Rehabilitation's request to allocate the above position to the CEA category has been approved effective May 14, 2007.

CHIEF, OFFICE OF EXECUTIVE RECRUITMENT AND PROGRAM PERFORMANCE MANAGEMENT

The California Department of Corrections and Rehabilitation's request to allocate the above position to the CEA category has been approved effective May 14, 2007.

PROGRAM MANAGER, STRATEGIC SOURCING PROGRAM

The Department of General Services' request to allocate the above position to the CEA category has been approved effective May 11, 2007.

DEPUTY DIRECTOR, ELECTRICITY SUPPLY ANALYSIS DIVISION

The California Energy Commission's request to allocate the above position to the CEA category has been approved effective May 7, 2007.

CHIEF DELIVERY OFFICER, TRANSPORTATION DELIVERY PROGRAM

The Department of General Services' request on behalf of the California Transportation Commission to allocate the position to the CEA category has been approved effective May 11, 2007.

ACTION: NOTED

24. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

25. WRITTEN STAFF REPORT FOR BOARD INFORMATION

NONE PRESENTED

26. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

NONE PRESENTED

27. BOARD ACTIONS ON SUBMITTED ITEMS

ACTION: See Minutes on Pages 28–30

A D J O U R N M E N T

WHAT FOLLOWS IS A RECORD OF ACTION TAKEN ON AGENDA ITEMS 18 – 20 AS NOTED.

18. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting.

On June 5, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

(1) CASE NO. 05-2211A

Appeal from dismissal

Classification: Senior Tax Compliance Representative

Department: Employment Development Department

Proposed decision rejected September 20, 2006.

Oral argument heard March 2, 2007.

Case ready for decision by FULL Board.

ACTION: The Board issued a non-precedential decision concluding that, based on all of the circumstances under which the appellant's allegedly threatening statement was made, appellant's lengthy tenure of service with no prior discipline, and the absence of clear testimony that anyone was personally fearful as a result of appellant's remarks, modification of appellant's dismissal was warranted. The Board therefore reduced the penalty to suspension without pay from June 13, 2005, through March 31, 2006.

(2) CASE NO. 06-1433

Appeal from official reprimand

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

Proposed decision taken under submission December 5, 2006.

NO ACTION

June 5, 2007

(3) CASE NO. 05-0929PA

Appeal from rejection during probation

Classification: Health Program Manager I

Department: Department of Health Services

Petition for Rehearing granted February 20, 2007.

Case ready for decision by FULL Board.

NO ACTION

(4) CASE NO. 06-0188A

Appeal from dismissal

Classification: Physician and Surgeon, CF

Department: Department of Corrections and Rehabilitation

Proposed decision rejected February 20, 2007.

Oral argument heard April 3, 2007.

Case ready for decision by FULL Board.

ACTION: The Board issued a non-precedential decision revoking appellant's dismissal and concluding that the Department of Corrections and Rehabilitation failed to establish, by a preponderance of the evidence: (1) that appellant, a physician, was in any way negligent or in any way fell below the standard of care in providing medical care to an inmate; (2) that appellant was negligent in not approving the transfer of the inmate into the institution's emergency room; or (3) that appellant failed to properly evaluate the inmate's competency to refuse medical treatment.

(5) CASE NO. 05-1067A

Appeal from dismissal

Classification: Investigator

Department: Department of Motor Vehicles

Proposed decision rejected January 9, 2007.

Oral argument heard May 8, 2007.

Case ready for decision by FULL Board.

NO ACTION

(6) CASE NO. 04-2919ERPA

Appeal from discrimination and retaliation

Classification: Physician and Surgeon

Department: Department of Corrections and Rehabilitation

Petition for Rehearing granted February 20, 2007.

Oral argument heard May 8, 2007.

Case ready for decision by FULL Board.

NO ACTION

June 5, 2007

- (7) **CASE NO. 05-0927BA**
Appeal for back salary determination
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation

Proposed decision rejected December 5, 2006.

Oral argument heard April 3, 2007.

Case ready for decision by FULL Board.

NO ACTION

- (8) **CASE NO. 06-1310**
Appeal from 14 working days suspension
Classification: Regional Administrator
Department: Department of Corrections and Rehabilitation

Proposed decision taken under submission December 5, 2006.

NO ACTION

B. CASES PENDING

ORAL ARGUMENTS

These cases were on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

On June 5, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

- (1) **CASE NO. 06-0235A**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: SUBMITTED

- (2) **CASE NO. 05-2888PA**
Appeal from dismissal
Classification: Staff Services Analyst (General)
Department: Department of Consumer Affairs
ACTION: SUBMITTED

June 5, 2007

C. CHIEF COUNSEL RESOLUTIONS

On June 5, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

(1) CASE NO. 05-3741

Appeal from dismissal

Classification: Medical Technical Assistant, CF

Department: Department of Corrections and Rehabilitation

Request for Order to Show Cause against Department of Corrections and Rehabilitation

ACTION: SUBMITTED

(2) CASE NO. 06-1756

Appeal from involuntary transfer

Classification: Prison Industries Manager (General)

Department: Prison Industry Authority

ACTION: The Board issued a resolution vacating its May 8, 2007, decision wherein the Board adopted an ALJ's Proposed Decision denying appellant's appeal from involuntary transfer, based on lack of jurisdiction and approving the parties' stipulation for settlement, submitted by the parties on or about May 1, 2007.

(3) CASE NOS. 00-0033, 00-0030, 00-0002, 99-5150

Appeal from suspension of 6 days or more

Classification: Various classes

Department: Department of Corrections and Rehabilitation

ACTION: In response to a court order overturning the Board, the Board issued a resolution vacating its prior decision, which held that that appellants could not be disciplined for dishonesty during the investigation regarding their participation in an illegal "pyramid" scheme where the dishonesty occurred within the statute of limitations but the underlying misconduct was barred by the applicable statute of limitations, and ordering the parties to submit written arguments on the issue of the appropriate disposition of this matter in light of the Court's rulings.

COURT REMANDS

NONE PRESENTED

STIPULATIONS

NONE PRESENTED

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These were ALJ proposed decisions submitted to the Board for the first time.

On June 5, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

(1) CASE NO. 07-0317

Appeal from rejection during probationary period

Classification: Correctional Supervising Cook (Correctional Facility)

Department: Department of Corrections and Rehabilitation

ACTION: The Board adopted the ALJ's Proposed Decision affirming the rejection and denying the appeal.

(2) CASE NO. 05-1432E

Appeal from denial of sexual harassment complaint

Classification: Health Facilities Evaluator Nurse

Department: Department of Health Services

ACTION: The Board adopted the ALJ's Proposed Decision denying the complaint.

(3) CASE NO. 05-2721

Appeal from five percent reduction in salary for three months

Classification: Health Facilities Evaluator Nurse

Department: Department of Health Services

ACTION: The Board rejected the ALJ's Proposed Decision and requested an oral argument, asking the parties to brief certain issues.

(4) CASE NO. 06-3456

Appeal from five percent reduction in salary for 12 months

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

ACTION: The Board adopted the ALJ's Proposed Decision modifying the reduction in salary.

(5) CASE NOS. 04-0172, 03-3385E & 04-0019E

Appeal from whistleblower retaliation complaints and dismissal

Classification: Associate Tax Auditor

Department: Franchise Tax Board

ACTION: The Board adopted the ALJ's Proposed Decision dismissing the appeals with prejudice.

- (6) **CASE NO. 06-1601**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (7) **CASE NO. 07-1381**
Appeal from dismissal
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation
ACTION: The Board rejected the ALJ's Proposed Decision and requested an oral argument, asking the parties to brief certain issues.
- (8) **CASE NO. 07-0860**
Appeal from dismissal
Classification: Financial Aid Counselor
Department: California State University, Long Beach
ACTION: The Board adopted the ALJ's Proposed Decision dismissing the appeal.
- (9) **CASE NO. 06-3954**
Appeal from dismissal
Classification: Parole Agent 1
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision modifying the dismissal.
- (10) **CASE NO. 06-3832**
Appeal from suspension for three working days
Classification: Groundswoker
Department: California State University, Long Beach
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the suspension.
- (11) **CASE NO. 06-0106E**
Appeal for discrimination and retaliation complaint
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision denying the discrimination/retaliation complaint.

(12) CASE NO. 06-1657

Appeal from five percent reduction in salary for six months

Classification: Locksmith I

Department: Department of Corrections and Rehabilitation

ACTION: The Board adopted the ALJ's Proposed Decision revoking the reduction in salary.

(13) CASE NO. 06-1867

Appeal from rejection during probation

Classification: Caltrans Equipment Operator I

Department: Department of Transportation

ACTION: The Board adopted the ALJ's Proposed Decision affirming the rejection and denying the appeal.

(14) CASE NO. 07-0485

Appeal from separation for cause

Classification: Psychiatric Technician Trainee

Department: Department of Mental Health

ACTION: The Board adopted the ALJ's Proposed Decision granting the appeal and name clearing.

(15) CASE NO. 05-1177

Appeal from dismissal

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.

PROPOSED DECISIONS TAKEN UNDER SUBMISSION AT PRIOR MEETING

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

(16) CASE NO. 06-0233R

Appeal from ten percent reduction in salary for four pay periods

Classification: Fire Captain

Department: Department of Forestry and Fire Protection

ACTION: The Board adopted the ALJ's Proposed Decision granting the respondent's motion to dismiss.

PROPOSED DECISIONS AFTER SPB ARBITRATION

(17) CASE NO. 06-0121

Appeal from five working days suspension

Classification: Officer

Department: California Highway Patrol

ACTION: The Board adopted the ALJ's Proposed Decision sustaining the suspension.

(18) CASE NO. 07-0122

Appeal from five days suspension

Classification: Officer

Department: California Highway Patrol

ACTION: The Board adopted the ALJ's Proposed Decision modifying the suspension.

(19) CASE NO. 07-0299

Appeal from five days suspension

Classification: Sergeant

Department: California Highway Patrol

ACTION: The Board adopted the ALJ's Proposed Decision sustaining the suspension.

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On June 5, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

(1) CASE NO. 04-1620AP

Appeal from dismissal

Classification: Transportation Surveyor

Department: Department of Transportation

ACTION: Petition for rehearing denied.

(2) CASE NO. 06-1743RP

Appeal from dismissal

Classification: Clinical Social Worker (Health/Correctional Facility)

Department: Department of Corrections and Rehabilitation

ACTION: Petition for rehearing denied.

June 5, 2007

(3) CASE NO. 05-1043P

Appeal from dismissal

Classification: Tax Counsel, Range D

Department: Board of Equalization

ACTION: Petition for rehearing granted.

(4) CASE NO. 06-2055P

Appeal from dismissal

Classification: Parole Agent II (Specialist)

Department: Department of Corrections and Rehabilitation

ACTION: Petition for rehearing denied.

WHISTLEBLOWER NOTICE OF FINDINGS

NONE

F. PENDING BOARD REVIEW

These cases were pending preparation of transcripts, briefs, or the setting of an oral argument before the Board.

On June 5, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

(1) CASE NO. 05-1007EA

Appeal from denial of discrimination complaint

Classification: Outside contractor

Department: Department of Transportation

Proposed decision rejected December 19, 2006.

Oral argument originally set April 3, 2007, Sacramento.

Continued to July 10-11, 2007, Sacramento.

NO ACTION

(2) CASE NO. 03-3412A

Appeal from rejection during probation

Classification: Correctional Counselor II (Supervisor)

Department: Department of Corrections and Rehabilitation

Petition for rehearing granted April 3, 2007.

Pending oral argument July 10-11, 2007, Sacramento.

NO ACTION

June 5, 2007

- (3) **CASE NO. 06-0760A**
Appeal from rejection during probation
Classification: Parole Agent I (Adult Parole)
Department: Department of Corrections and Rehabilitation
- Proposed decision rejected November 14, 2006.
Oral argument originally set February 6-7, 2007, Los Angeles.
Continued to July 10-11, 2007, Sacramento.
- NO ACTION**
- (4) **CASE NO. 06-0235A**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
- Proposed decision rejected January 9, 2007.
Oral argument heard June 5, 2007, Sacramento.
- ACTION: SUBMITTED**
- (5) **CASE NO. 06-3023A**
Appeal from ten percent reduction in salary for three months
Classification: Psychiatric Technician
Department: Department of Corrections and Rehabilitation
- Proposed decision rejected March 2, 2007.
Pending oral argument August 7-8, 2007, Los Angeles.
- NO ACTION**
- (6) **CASE NO. 05-2888PA**
Appeal from dismissal
Classification: Staff Services Analyst (General)
Department: Department of Consumer Affairs
- Petition for rehearing granted October 31, 2006.
Oral argument heard June 5, 2007, Sacramento.
- ACTION: SUBMITTED**
- (7) **CASE NO. 05-1285A**
Appeal from dismissal
Classification: Public Safety Dispatcher II
Department: Department of California Highway Patrol
- Proposed decision rejected January 9, 2007.
Oral argument originally set June 5, 2007, Sacramento.
Oral argument continued.
- NO ACTION**

June 5, 2007

(8) CASE NO. 06-1338A

Appeal from rejection during probation

Classification: Industrial Relations Counsel III (Specialist)

Department: Department of Industrial Relations

Proposed decision rejected May 8, 2007.

Pending transcript.

NO ACTION

(9) CASE NO. 06-0738A

Appeal from dismissal

Classification: Correctional Sergeant

Department: Department of Corrections and Rehabilitation

Proposed decision rejected May 18, 2007.

Pending transcript.

NO ACTION

(10) CASE NO. 06-2010A

Appeal from medical termination

Classification: Administrative Support Coordinator II

Department: California State University, Los Angeles

Proposed decision rejected May 8, 2007.

Pending transcript.

NO ACTION

(11) PSC NO. 06-03, CASE NO. 07-0806PA

Appeal from Executive Officer's disapproval of Unarmed Security Guard Services

Department: California Highway Patrol

Petition for rehearing granted May 8, 2007.

NO ACTION

20. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases were heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board was presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

June 5, 2007

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

On June 5, 2007, the Board adopted, as indicated below, the following items as presented by Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

- (1) **CASE NO. 05-3668**
Classification: Hospital Police Officer
Department: California Department of Mental Health
Issue: Suitability; negative law enforcement contacts.
ACTION: DENIED
- (2) **CASE NO. 06-4412N**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; omitted pertinent information and provided inaccurate information.
ACTION: DENIED
- (3) **CASE NO. 05-3236**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; DUI arrest/conviction.
ACTION: DENIED
- (4) **CASE NO. 06-1309N**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; three DUI convictions and one Reckless Driving conviction.
ACTION: DENIED
- (5) **CASE NO. 05-2798**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; a negative employment record.
ACTION: DENIED

June 5, 2007

- (6) **CASE NO. 05-2627**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; omitted pertinent information, a negative employment record and a failure to meet legal obligations.
ACTION: DENIED
- (7) **CASE NO. 05-3046**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; negative law enforcement contacts.
ACTION: DENIED
- (8) **CASE NO. 05-4146**
Classification: CHP, Cadet
Department: California Highway Patrol
Issue: Suitability; negative employment record.
ACTION: DENIED
- (9) **CASE NO. 05-3370**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; questionable character.
ACTION: DENIED

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

On June 5, 2007, the Board adopted, as indicated below, the following items as presented by Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

- (1) **CASE NO. 06-1549N**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: The appellant was medically disqualified due to not meeting the vision acuity standards needed to perform the duties of the job.
ACTION: DENIED

- (2) **CASE NO. 06-3621N**
Classification: Correctional Officer
Department: Department of Correction & Rehabilitation
Issue: The appellant was medically disqualified because his medical qualifications do not meet the standards required to perform the essential functions of a Correctional Officer.
ACTION: DENIED
- (3) **CASE NO. 05-4049**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; recency of alcohol intake, lacks the general qualifications deemed essential for a Correctional Officer.
ACTION: DENIED
- (4) **CASE NO. 05-4144**
Classification: Investigator I
Department: Alcoholic Beverage Control
Issue: Suitability; personality characteristics and a history of recent panic attacks.
ACTION: DENIED
- (5) **CASE NO. 06-1063N**
Classification: Correctional Officer
Department: Department of Correction & Rehabilitation
Issue: The appellant was medically disqualified because his visual acuity was not correctable to the visual acuity standard of 20/20 that would qualify him to safely perform the essential functions of a Correctional Officer.
ACTION: DENIED
- (6) **CASE NO. 06-1055N**
Classification: Hospital Peace Officer
Department: California Department of Mental Health
Issue: Suitability; deficits in judgment and the inability to follow rules and regulations.
ACTION: DENIED
- (7) **CASE NO. 06-1344N**
Classification: Correctional Officer
Department: Department of Correction & Rehabilitation
Issue: Suitability; problems with honesty, poor judgment, and susceptibility to stress.
ACTION: DENIED

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- (8) **CASE NO. 05-4120**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; poor judgment and poor command presence.
ACTION: DENIED
- (9) **CASE NO. 06-0497N**
Classification: Fraud Investigator I
Department: Department of Insurance
Issue: The appellant shows signs of insufficient integrity and poor judgment under stress, personality traits that would significantly interfere with the performance standards for State peace officer employment under G.C. § 1031.
ACTION: DENIED
- (10) **CASE NO. 06-1395N**
Classification: Correctional Officer
Department: Department of Correction & Rehabilitation
Issue: Suitability; inadequate interpersonal skills.
ACTION: DENIED
- **CASE NO. 07-0821N**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
ACTION: DISMISSED

C. **EXAMINATION APPEALS**
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS

NONE

D. **RULE 211 APPEALS**
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS

NONE

E. **REQUEST TO FILE CHARGES CASES**

Investigated by Appeals Division staff. The Board was presented recommendations by Appeals Division staff for final decision on each request.

On June 5, 2007, the Board adopted, as indicated below, the following item as presented by Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

(1) CASE NO. 05-2595

Classification: Correctional Officer

Department: Department of Corrections & Rehabilitation

Issue: The charging party requests to file charges for violations of various subsections of Government Code § 19572.

ACTION: DENIED

PETITIONS FOR REHEARING CASES

NONE

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

NO ACTION

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

NO ACTION

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

NO ACTION

6. CASE NO. 06-1814

Appeal from official letter of reprimand. Correctional Officer. Department of Corrections and Rehabilitation. (Presented to Board December 5, 2006.)

NO ACTION

7. CASE NO. 06-1310

Appeal from 14 working days' suspension. Regional Administrator. Department of Corrections and Rehabilitation. (Presented to Board December 5, 2006.)

NO ACTION

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8. CASE NO. 05-2211A

Appeal from dismissal. Senior Tax Compliance Representative. Employment Development Department. (Oral argument held March 2, 2007.)

ACTION: The Board issued a non-precedential decision concluding that, based on all of the circumstances under which the appellant's allegedly threatening statement was made, appellant's lengthy tenure of service with no prior discipline, and the absence of clear testimony that anyone was personally fearful as a result of appellant's remarks, modification of appellant's dismissal was warranted. The Board therefore reduced the penalty to suspension without pay from June 13, 2005, through March 31, 2006.

9. CASE NO. 05-3741

Appeal from dismissal. Medical Technical Assistant, CF. Department of Corrections and Rehabilitation. Request for Order to Show Cause against Department of Corrections and Rehabilitation. (Presented to the Board March 2, 2007.)

NO ACTION

10. CASE NO. 06-0188A

Appeal from dismissal. Physician & Surgeon, CF. Department of Corrections and Rehabilitation. (Oral argument held April 3, 2007.)

ACTION: The Board issued a non-precedential decision revoking appellant's dismissal and concluding that the Department of Corrections and Rehabilitation failed to establish, by a preponderance of the evidence: (1) that appellant, a physician, was in any way negligent or in any way fell below the standard of care in providing medical care to an inmate; (2) that appellant was negligent in not approving the transfer of the inmate into the institution's emergency room; or (3) that appellant failed to properly evaluate the inmate's competency to refuse medical treatment.

11. CASE NO. 05-0927BA

Appeal for back salary determination. Correctional Sergeant. Department of Corrections and Rehabilitation. (Oral argument held April 3, 2007.)

NO ACTION

12. CASE NO. 05-0929PA

Appeal from rejection during probation. Health Program Manager I. Department of Health Services. (Oral argument held May 8, 2007.)

NO ACTION

13. CASE NO. 05-1067A

Appeal from dismissal. Investigator, DMV. Department of Motor Vehicles. (Oral argument held May 8, 2007.)

NO ACTION

14. CASE NO. 04-2919ERPA

Appeal from discrimination and retaliation. Physician & Surgeon, CF. Department of Corrections and Rehabilitation. (Oral argument held May 8, 2007.)

NO ACTION

15. HEARING – GOVERNMENTAL PROGRAM ANALYST

The State Personnel Board in consultation with the Department of Personnel Administration proposes the establishment of the new classification of Governmental Program Analyst. (Hearing held May 8, 2007.)

NO ACTION

16. CASE NO. 06-0235A

Appeal from dismissal. Correctional Officer. Department of Corrections and Rehabilitation. (Oral argument held June 5, 2007.)

NO ACTION

17. CASE NO. 05-2888PA

Appeal from dismissal. Staff Services Analyst (General). Department of Consumer Affairs. (Oral argument held June 5, 2007.)

NO ACTION

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

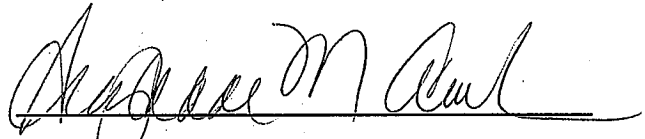
WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting held on June 5, 2007.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

A handwritten signature in cursive script, appearing to read 'Suzanne M. Ambrose', written over a horizontal line.

Suzanne M. Ambrose
Executive Officer
California State Personnel Board